

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

Bail Appl..No. 781 of 2015

CRIME NO. 1271/2014 OF PETTA POLICE STATION, THIRUVANANTHAPURAM.
.....

PETITIONER/ACCUSED NO.2:

**DINY, AGED 38 YEARS, S/O BABU,
KALLUVETTAMKUZHY VEEDU,
KANNAMMOOLA, KOYIKKAL LANE,
MEDICAL COLLEGE P.O,
THIRUVANANTHAPURAM - 695 011.**

**BY ADVS.SRI.C.ANILKUMAR (KALLESSERIL)
SRI.C.Y.VINOD KUMAR**

RESPONDENT/COMPLAINANT:

**STATE OF KERALA, (REPRESENTED BY
THE SUB INSPECTOR OF POLICE,
PATTAH POLICE STATION-
CR. NO.1271/2014 OF PETTAH POLICE, STATION)
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.LALIZA.T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 10-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

B.KEMAL PASHA, J.

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B.A. No.781 of 2014

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Dated this the 10th day of March, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioner is the 2nd accused in Crime No.1271 of 2014 of the Pettah Police Station, registered for the offences punishable under Sections 120B, 143, 147, 148, 294(b), 308, 323, 324 and 341 read with Section 149 IPC.

3. The allegation against the petitioner and the other accused is that on 13.11.2014 at 8.00 p.m., they formed themselves into an unlawful assembly armed with deadly weapons like chopper, iron rod etc., committed rioting and rioting armed with deadly weapons. It is alleged that they attacked the defacto complainant and his friends and inflicted cuts on them with chopper. They were beaten with iron rod and they were slapped and stamped.

4. Heard learned counsel for the petitioner and learned Public Prosecutor.

5. According to the learned counsel for the petitioner

some of the accused were granted anticipatory bail in the said case on the ground that they had not made use of any weapon. According to the learned counsel for the petitioner, there is no specific allegation against the petitioner that he had also made use of any weapon. At the same time, the learned Public Prosecutor has pointed out that the petitioner is an accused in 14 cases and he is a hardened criminal involved in a series of serious criminal offences. The petitioner is an accused in the following cases:

1. Cr.No.186/94 U/s.143, 147, 148, 149, 324 IPC
2. Cr.No.111/94 U/s.143, 147, 148, 149, 324 IPC
3. Cr.No.128/96 U/s.324, 34 IPC
4. Cr.No.88/01 U/s.427, 506(i), 34 IPC
5. Cr.No.470/01 U/s.341, 323, 379, 34 IPC
6. Cr.No.177/02 U/s.452, 427, 34 IPC
7. Cr.No.164/05 U/s.143, 147, 148, 149, 353, 323, 324 IPC
8. Cr.No.288/08 U/s.5 of E S Act & Sec.27 of the Arms Act.

All the above said crimes are of Pettah Police Station.

9. Cr.No.49/04 U/s.143, 147, 148, 149, 324, 326, 307 IPC
and
10. Cr.No.292/10 U/s.143, 147, 148, 149, 341, 506(ii), 294
(b), 353 IPC of Vanchiyoore Police Station.
11. Cr.No.615/05 U/s.3 and 5 of E S Act and Sec.27 of the
Arms Act of the Medical College Police Station.
12. Cr.No.1294/14 U/s.107 Cr.P.C. of the Pettah Police

Station.

*13.Cr.No.1777/14 U/s.294(b), 506(i), 447, 427, 34 IPC of
the Medical College Police Station and*

*14.Cr.No.143/97 U/s.143, 147, 148, 149, 302 IPC & Sec.27
of the Arms Act of the Kadakkavoor Police Station.*

6. Considering the series of serious criminal antecedents on the part of the petitioner and the fact that he is a habitual offender, he is not entitled to the discretionary relief of anticipatory bail. It seems that the petitioner had earlier moved this Court for anticipatory bail through B.A.No.9034 of 2014 and the same was dismissed by this Court through a detailed order dated 27.01.2015. At the request of the learned counsel for the petitioner, an opportunity was extended to the petitioner to surrender before the investigating officer and to co-operate with the investigation. It seems that the petitioner has not availed of that opportunity. There is no change of circumstances at all. This application seeking anticipatory bail is not maintainable and is only to be dismissed, and I am doing so.

7. At the same time, the learned counsel for the petitioner seeks for a further opportunity to the petitioner to

surrender before the investigating officer and to co-operate with the investigation.

In the result, this bail application is dismissed. At the same time, if so advised, the petitioner may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the petitioner, effect recovery if any, and conduct the investigation and produce the petitioner without delay before the court below, where the petitioner can move for bail. In such case, the learned Magistrate shall pass appropriate orders, preferably on the same day itself, provided advance notice on such application has been given to the Assistant Public Prosecutor also.

Sd/-

**B.KEMAL PASHA,
JUDGE**

DSV/11/3/15

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PA to Judge